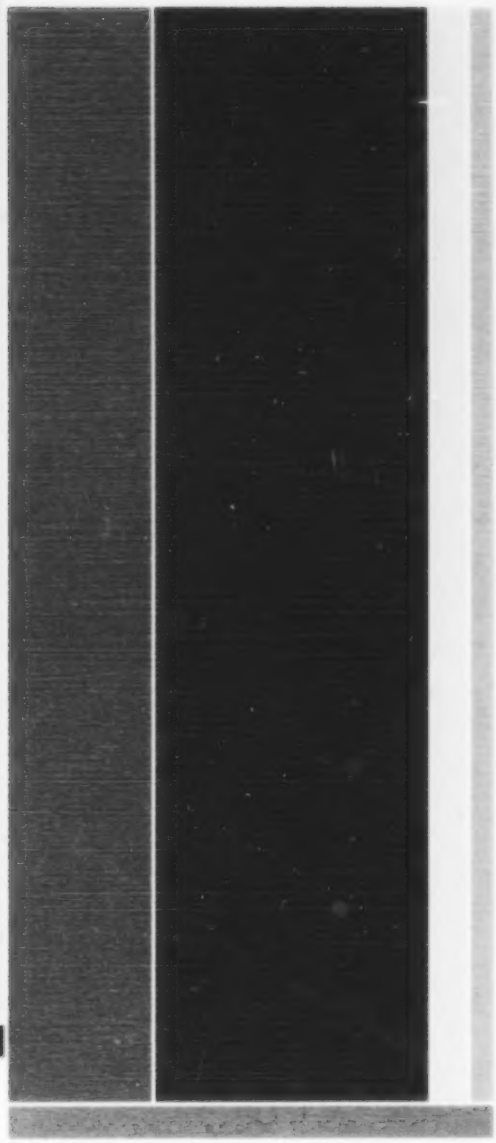
ACCOMMODATION AND DIFFERENCES

Seeking Common Ground: Quebecers Speak Out

CONSULTATION DOCUMENT



dialogue makes a difference

Québec

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SUMMARY

OF THE CONSULTATION DOCUMENT

An Overview

On February 8, 2007, Québec Premier Jean Charest announced the establishment of the Consultation Commission on Accommodation Practices Related to Cultural Differences in response to public discontent concerning reasonable accommodation. The Order in Council establishing the Commission stipulates that it has a mandate to (a) take stock of accommodation practices in Québec; (b) analyse the attendant issues bearing in mind the experience of other societies; (c) conduct an extensive consultation on this topic; and (d) formulate recommendations to the government to ensure that accommodation practices conform to Québec's values as a pluralistic, democratic, egalitarian society.

Delimiting the Problem of the Situation

The Commission's mandate, as defined, could be broached in two ways, in a broad sense or in a narrower sense. The narrower sense would consist in confining the Commission's deliberations to the strictly legal dimension of reasonable accommodation. This notion, which stems from labour-related jurisprudence, refers to a form of arrangement or relaxation aimed at combating the discrimination that a seemingly neutral norm can bring about in its effect, usually an infringement of an individual's right to equality. In general language, the meaning of the concept has gone beyond this legal definition and encompasses all forms of arrangements allowed by managers in public or private institutions in respect of students, patients, customers, employees, and so on. The second body of practices, which we will call "concerted adjustments," differs essentially from reasonable accommodation in the strict sense inasmuch as it seeks to avoid recourse to the courts in favour of public intervention stemming from the ideal of the most harmonious possible management of our life together. It will be important to bear in mind this distinction throughout the Commission's consultations. On the same topic, we will also adopt the concept of intercultural harmonization to indicate the entire array of reasonable accommodation and concerted adjustment practices.

The second approach to the Commission's mandate would be to perceive the debate on reasonable accommodation as the symptom of a more basic problem concerning the sociocultural integration model that has prevailed in Québec since the 1970s. This perspective calls for a review of interculturalism, immigration, secularism and the theme of Québec identity. The Commission has decided to follow the second course with a view to grasping the problem at its source and examining it from every angle, while taking into consideration the sometimes alarmist media coverage of the situation.

Questioning and problems related to the management of intercultural relations are not affecting Québec alone but are apparent in the Western nations and beyond. Many nations are today facing the reaction of established identities that are being destabilized by tenacious diversity. Such nations must also shape a pluralistic awareness that gradually took root in the second half of the 20th century. Most Western nations are facing the same challenge, that of reviewing the major codes governing life together to accommodate ethnocultural differences while respecting rights. None of these societies can claim to have found a quick fix. It is incumbent upon each one of them to elaborate a solution or model that suits it, in keeping with its history, institutions and values and the constraints that it is facing.

In Québec, members of the French-speaking population have expressed the fear that cultural diversity might undermine social cohesion. This fear probably stems from the anxiety that their cultural and linguistic survival in the North American context has always aroused. To what extent is fear about social cohesion founded? Before we answer this question, it is useful to note that Québec society in the past was not as homogeneous as we sometimes like to think. The consensuses that prevailed were often imposed in an authoritarian manner. At present, consensuses are established differently and more freely. Democratic, pluralistic societies favour the expression of differences and public debate.

We must not underestimate the pitfalls, inequalities or discrimination often faced by some newcomers and long-established members of the cultural communities in Québec. Obstacles such as poverty and exclusion are factors of social marginalization and, occasionally, radicalization and cultural retrenchment. For this reason, occupational integration is very important for all immigrant Québecers, who are often recruited in light of their skills and high level of education.

Discontent over reasonable accommodation has revived debate on secularism (*laicite*) in Québec society. The notion of secularism is complex and can be understood in several ways, which directly affect the rules governing togetherness. When defined as the principle of separation between church and State, secularism can sometimes be linked to the neutrality of the State in respect of various religions or world views and sometimes to the more or less complete elimination of the religious life from the public sphere. In other words, we may wish to defend "open" secularism or "integral" secularism. Unlike debate that occurred in the 1960s, which sought to redefine powers and the division of responsibility between the State and the Catholic Church, the current debate is taking place in a unique context of pluridenominationality.

An opportunity to be seized

Quebecers are once again facing the obligation of seeking common ground, as they have done in preceding decades. Like other Western nations, Québec must find a way to draw together different cultures sharing the same space and that rely on the same institutions. This context of intercultural friction is experienced by many as a crisis, but it can also be broached from a positive angle insofar as it affords us an opportunity to review and, if need be, redefine the ties that unite us.

It is in this spirit that the Commission is conducting its deliberations by focusing on three concrete objectives. Specifically, it is seeking to (a) clarify the existing situation; (b) provide a reference framework to facilitate decision-making among the managers of public and private institutions; and (c) share its reflections and formulate recommendations concerning the future of interethnic relations and the method of integration that Québec society adopts. To achieve these aims, the first step consists in the Commission's listening to Quebecers. To this end, it has created a Website on which individuals may express themselves (www.accommodements.qc.ca) and, starting in September 2007, it will conduct an extensive public consultation throughout Québec.

An invitation

We invite interested individuals and organizations to submit briefs and meet with Commission members to discuss the question. To sustain public reflection, the consultation document prepared by the Commission contains demographic data on Québec, indicates the texts and underlying principles that define Québec democracy (*Charter of Human Rights and Freedoms*, *Charter of the French language*, and so on), takes stock of ethnocultural diversity and Québec's integration policy, and focuses on the nature of reasonable accommodation and concerted adjustments. The document also includes a series of questions pertaining to different facets of the debate and a simulation exercise for readers, who can inform the Commission of the harmonization practices that they deem to reflect Quebecers' shared values and their own opinions ("If you had to decide ...").

The Consultation Commission on Accommodation Practices Related to Cultural Difference has the duty to ascertain the nature and source of the conflict that is dividing Québec society in order to imagine the means of reconciliation. This initiative can only be carried out with the full participation of Quebecers, which is why the impending public consultation is so important. We urge interested individuals and groups to make themselves heard.

INTRODUCTION

Under our mandate, starting in September we will conduct public consultations throughout Québec. This consultation document is intended for individuals, groups, organizations or institutions that wish to be heard by the Commission by submitting a brief or simply by testifying before it. To this end, Part I provides useful information on our interpretation of our mandate and the objectives we are pursuing, the Commission's activity plan, the organization of the consultation and other information. Part II presents information and indicates considerations likely to enlighten reflection by Quebecers, focusing mainly on Québec's demographic situation, ethnocultural statistics*[1] and basic legal and legislative references.

THE COMMISSION'S MANDATE

a) take stock of accommodation practices in Québec;
b) analyse the attendant issues bearing in mind the experience of other societies;
c) conduct an extensive consultation;
d) formulate recommendations to the government

To structure the impending discussions, Part III of the consultation document reviews the question from the standpoint of the four key dimensions of accommodation or harmonization practices,* i.e. values and rights, cultural diversity, collective integration (especially of newcomers), and secularism.* It also presents an overview of reasonable accommodation* as such, including a brief outline of its ramifications and methods of application. A series of questions is formulated in respect of each of these themes, to which the authors of briefs are invited to respond. The consultation document concludes with a simulation exercise in which the public is invited to participate and which might prove as intellectually stimulating as it is instructive.

Québec Premier Jean Charest announced the establishment of the Consultation Commission on Accommodation Practices Related to Cultural Differences on February 8, 2007. The Order in Council establishing the Commission stipulates that it has a mandate to (a) take stock of accommodation practices in Québec; (b) analyse the attendant issues bearing in mind the experience of other societies; (c) conduct an extensive consultation on this topic; and (d) formulate recommendations to the government to ensure that accommodation practices conform to Québec's values as a pluralistic, democratic, egalitarian society (see Appendix I).

The government's decision stemmed from expressions of discontent in recent years, especially over the past months, concerning what is rightly or wrongly called reasonable accommodation.* What was in question were initiatives or measures taken to ensure fuller respect for the right to equality and, in the case of minority religious practices, freedom of religion. Legally speaking, reasonable accommodation originates in jurisprudence. Although it is rarely formally spelled out in legislation, accommodation is deemed to be included in the right to equality that the charters recognize. It is a mechanism that the Supreme Court of Canada, which drew inspiration from a concept already recognized in the United States, sanctioned in 1985 in order to combat indirect discrimination,* which, following the application of an institutional norm* such as a statute, rule, regulation, contract, administrative decision or customary practice, infringes a citizen's right to equality or freedom of religion.

1 Terms marked with an asterisk (*) are defined in the glossary (see Appendix II).

The scope of reasonable accommodation, in a legal sense, is very broad, ranging from public institutions (the school system, the health care network, detention centres, government service organizations) to private organizations (commercial or industrial establishments, community agencies, and so on). As a rule, accommodation measures are intended to protect individuals such as the members of minority groups likely to be wronged by the application of norms* prescribed by an institution or organization.

It should also be noted that, in general language, the concept of accommodation has gone beyond this strictly legal framework to encompass all forms of voluntary arrangements willingly allowed by the managers of public or private institutions in respect of students, patients, customers, employees, and so on. It can also be used, in general language, in respect of agreements or attempts to reach agreement in the private sector.[2]

A number of cases of accommodation in the broadest sense or incidents linked to cultural differences widely covered by the media have fuelled the controversy. Some examples that come to mind are the eruv* and the sukkah* in Outremont, prayer rooms at the École de technologie supérieure, the carrying of a kirpan* in a school in the Commission scolaire Marguerite-Bourgeoys in Montréal, the frosted windows of the YMCA on avenue du Parc in Montréal, the sugar-house in Mont-Saint-Grégoire in the Montérégie region, ablutions performed in sinks in various establishments, or the announcement made last March by the Chief Electoral Officer of Québec that Muslim voters wearing the niqab* or the burka* would be allowed to vote without having to expose their faces to identify themselves.

Moreover, it should be noted that the discontent mentioned earlier is largely associated with Quebecers of French-Canadian origin, which is why they are sometimes quoted in this document. However, it would be a mistake to conclude that the phenomenon extends to all such Quebecers, many of whom, it must be emphasized, fully approve the accommodation practices found in our institutions.

The consultation to be launched next September will allow us to re-examine all of these questions in order to shed light on the recent controversy and the tension that has arisen here and there.

2. See point E in Part III for a more detailed discussion of the question.

PART I

THE COMMISSION

MANDATE

We could have confined our deliberations solely to an examination of reasonable accommodation as such by endeavouring to ascertain in what way it represents for some Quebecers a source of anxiety but quickly realized that this problem masks another, much more basic one. It is true that some protests targeted only one kind of accommodation linked to certain religious practices, but what numerous critics appear to call into question, at least indirectly, is the sociocultural integration* model adopted in Québec in the 1970s. This perspective compels us to re-examine interculturalism,* relations with the cultural communities, immigration, secularism* and the theme of Québec's identity as part of the French-speaking countries and communities of the world. In a word, it is, in particular, the management of diversity, especially religious diversity, that appears above all to pose a problem. We therefore felt it was necessary to interpret our mandate in a broad perspective, perfectly aware of the enormous difficulties the task implies.

REASONABLE ACCOMMODATION IS A LEGAL NOTION

This notion stems from labour-related jurisprudence and refers to a form of relaxation aimed at combating the discrimination caused by the strict application of a norm some of whose effects can infringe an individual's right to equality.

Briefly, had we adopted a narrow interpretation of our mandate, we would have focused, by and large, on (a) the ins and outs of reasonable accommodation as a legal mechanism and (b) the conception of a frame of reference accompanied by guidelines governing accommodation practices. A broad interpretation encouraged us to extend our reflection beyond accommodation in the strictly legal sense in order to also analyse the basic questions underlying accommodation, i.e. the relationships between cultures and the nature of togetherness. We have adopted the latter perspective.

We can justify our choice another way. Reasonable accommodation, in keeping with the spirit of the law and the charters, seeks to counter the discrimination that an individual experiences and each case is handled individually. Recent events have shown that accommodation or harmonization practices have a much broader scope. They go beyond the individual and assume a collective dimension. We must take into account this significant shift in the elaboration of our approach.

We have also set two limits to our mandate. The first one concerns the English-speaking minority. This community, which is obviously part of what is called the host society, is fully experiencing Québec's ethnocultural diversity* and is thus closely concerned by the Commission's mandate. Such being the case, to avoid any ambiguity, we wish to specify that, even if our deliberations led us to re-examine Québec society's integration model, the English-speaking minority's particular status in Québec need not be called into question. Rights and prerogatives, e.g. the right to public services in the English language guaranteed by the Canadian Constitution must be respected. Furthermore, the National Assembly has already recognized that "there exists a Québec English-speaking community that enjoys long-established rights."[3]

3. Preamble of the Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State (R.S.Q., c. E-20.2) adopted in December 2000 by the National Assembly.

Similarly, we are not contemplating reconsidering in any way whatsoever the political and legal status of the aboriginal peoples. Once again, the Québec National Assembly has recognized the existence of the 11 nations living within Québec's borders and their specific rights.[4] Section 35 of the *Constitution Act, 1982* also recognizes the existing aboriginal and treaty rights of these peoples. The relationship between the aboriginal peoples and Québec is a nation-to-nation relationship. Such being the case, given that accommodation practices stem very broadly from the right to equality, it might have seemed logical to include in our field of study the situation of the aboriginal communities, but we were compelled to decide otherwise. The topic falls outside the purview of our mandate, even very broadly interpreted. Without in any way calling into question the rights that are at the heart of aboriginal claims and despite the discrimination to which they have always been subject, we believe that they do not fall within the ambit of our mandate.

GRASPING THE PROBLEM AT ITS SOURCE

Aside from its legal aspects, the problem of reasonable accommodation encourages us to re-examine different facets of our sociocultural integration model, i.e. interculturalism, immigration, secularism and the Québec identity.

The preliminary studies and meetings that we have conducted in recent weeks[5] have convinced us that reflection must take place in a broad perspective that allows us to grasp all facets of the current controversy. At this stage in our deliberations it is certainly too early to attempt an accurate diagnosis. For example, we must carefully acknowledge the role played by occasionally alarmist media coverage little concerned with the facts before we can ascertain the scope and meaning of public reaction.[6] However, several significant points are already fairly clear. The opinions expressed in recent months bring back to the fore the question of secularism (*laïcité*). There appears to be considerable uncertainty, indeed, a malaise in Québec society, concerning our relationship with religion.* At the same time, Quebecers of French-Canadian origin strongly support the rights stipulated in the Québec and Canadian charters, but they also continue to be deeply attached to their identity, traditions and heritage. If the legal and identity dimensions have coalesced fairly harmoniously in recent decades, some friction now seems apparent.

The controversy over accommodation has led several Quebecers of French-Canadian origin to believe that the ethnic minorities are taking for granted the host society's values and institutions. Their reaction may be perceived as a protest on behalf of the culture of a founding people established for four centuries in this territory and worried about its heritage. It may also be perceived as the reaction of a French-speaking community, which, while it forms a majority in Québec, is nonetheless a minority on the continent, i.e. roughly 2% of the population of North America, which explains a persistent feeling of fragility among some Quebecers.

4. March 20, 1985 resolution of the Québec National Assembly on recognition of the rights of the aboriginal peoples and May 30, 1989 resolution on the recognition of the Malecite Nation.

5. These meetings with focus groups* assembled experts, the representatives of organizations, professionals working in public institutions, and individual Quebecers of various backgrounds and origins. We were also able to put to good use the initial findings of the research we sponsored. In addition, we received numerous e-mails from individuals after the announcement on February 8, 2007 of the Commission's establishment.

6. Perhaps the most striking example in this regard is the manner in which the incident at the Mont-Saint-Grégoire sugarhouse was handled in March 2007. Our investigation reveals that the facts were distorted, which sustained the strong reaction to it. In fact, the incident was rather trifling.

Other factors have, very obviously, come into play, which we will examine in our final report, but it appears that we are witnessing in Québec a reaction whose scope has yet to be determined against an integration model that some people believe is too permissive toward certain members of the ethnic minorities, who are quickly placed in the same category as all of the communities concerned. This movement, it should be said in passing, is perhaps accompanied in certain segments of the population by a credibility gap in respect of their elites. All of this is occurring at a time when, for various reasons, many Quebecers are experiencing a period of uncertainty and questioning. This mood is undoubtedly not unrelated, in particular, to various signs of sociocultural fragmentation (in identities and ideologies, between generations, between the regions and Montréal, and so on), to the surge of mass culture and growing economic insecurity linked to economic globalization, including company migration.

A CHALLENGE FOR WESTERN NATIONS

Almost all Western nations are facing the same challenge, that of reviewing the major codes governing life together to accommodate ethnocultural differences while respecting rights.

It is important to remember that **problems of this nature are not unique to our society**. To the contrary, they are apparent throughout the Western nations and beyond. The most striking cases include England, Holland, Denmark, Norway, France, Germany, Belgium, Austria, Australia, the United States and, to a lesser extent, English-speaking Canada. These nations are contending with a reaction by old identities that are being destabilized by ethnocultural diversity that demands to be acknowledged. All in all, we must emphasize, most Western nations are grappling with the same challenge, that of **reviewing the major codes governing life together to accommodate ethnocultural differences while respecting rights**. Let us add that none of these societies can claim to have found a quick fix. It is incumbent upon each one of them to elaborate a solution or model that suits it, in keeping with its history, institutions and values and the constraints that it is facing.

In a word, Quebecers are once again facing the obligation of seeking common ground, as they did starting with the Quiet Revolution and during subsequent decades with the establishment of state control over the school system, the *Charter of Human Rights and Freedoms*, Bill 101, and intercultural policy. Like other Western nations, Québec must find a way to **draw together different cultures sharing the same space and that rely on the same institutions**. Unsurprisingly, some Quebecers perceive this context of intercultural friction as a crisis, especially in a society such as ours where, as we noted earlier, the majority culture in Québec is itself a minority culture on the North American continent.

On the other hand, this uncertainty can also be broached from a positive angle insofar as it **affords us an opportunity to review and, if need be, redefine the ties that unite us**. It is up to us, i.e. all Quebecers, to display trust, moderation and mutual respect, imagination and daring.

THE COMMISSION'S OBJECTIVES

PUBLIC CONSULTATION

The Commission's practical objectives reflect this vast horizon and are threefold. First, we wish to clarify the situation. What exactly are accommodation practices? What has spawned such practices? What kinds of problems are they intended to solve? What is their future in our society? Second, in much more concrete terms, we are seeking to situate the entire array of accommodation practices in a coherent reference framework from which the managers of public and private institutions might draw inspiration in their decision-making. To this end, one of our priorities is to dissipate the disinformation and confusion surrounding this topic in order to restore its proper proportions. The consultation and discussions that we will carry out throughout Québec starting next September will be very valuable in this respect. In a broader perspective, we hope to engage in reflection and formulate recommendations on the future of interethnic relations and Québec society's method of integration. However, it is very obvious that these three objectives can only be achieved at the conclusion of a **genuine dialogue with the public.**

THE COMMISSION'S CONCRETE OBJECTIVES

a) clarify the existing situation;
b) provide a reference framework for the managers of institutions;
c) formulate recommendations concerning the integration model.

Under our mandate, we are meeting with numerous experts and conducting research to fully understand the nature of accommodation practices and accurately take stock of them. Such being the case, and above all at this stage of our deliberations, we are listening to the public. For this reason, we have created a Website to enable all Quebecers to express themselves in French or in English on the topics that we are proposing or any other aspect of accommodation practices. It is also in this spirit that we will visit Québec's regions and principal cities between September and December 2007 to hear Quebecers' reflections and suggestions.

This public consultation is of the utmost importance. We expect it to give rise to **frank, open discussions that are tempered by reason and civility.** In broaching head-on and in depth the questions that concern our society, we also hope that this consultation will reveal extensive positive experience throughout Québec of intercultural differences. We are convinced that we can make this operation a major demonstration of democracy, as we have already done on different occasions in the past. We must all seek the same objective: to conceive of a fair, original model of collective life of which we are proud.

This is a daunting but very noble responsibility, one that is incumbent upon each and every one of us. It is important to remember, indeed, that the conclusions we reach will attract the attention of a very broad public, far beyond our borders. As we have noted, the question of ethnocultural diversity concerns all democratic nations. We have **an opportunity to put our mark on a very important debate.**

We encourage interested individuals and organizations to submit briefs and to attend the public hearings to discuss them. During the public hearings, we also want to hear testimony from individuals who, although they have not drafted a brief, would like to briefly testify about their relevant experience or share their opinion on a particular point.

AN INVITATION

Quebecers can express themselves on the Commission's Website and by submitting briefs. Starting in September, the Commission will conduct a sweeping consultation throughout Québec.

TERMINOLOGY

To facilitate our discussions on accommodation practices and the attendant themes, it would be advisable to rely where possible on a common vocabulary. In this spirit, we are proposing the following concepts pertaining to accommodation or arrangements related to cultural differences.[7]

In all instances, accommodation is based on the principle of negotiation, whether or not it is formal, between two parties, usually an individual and an organization, the first of which claims to be the victim of discrimination. Such negotiation seeks to **strike a balance between each party's rights without imposing an undue burden on the party targeted by the complaint**. Beyond this general formulation, it must be emphasized that accommodation practices or arrangements fall under two largely overlapping spheres that we must avoid confusing.

The first is the **citizen** (or citizen cooperation) **sphere**. It is in the nature of a democratic, pluralistic society to want to eliminate all forms of discrimination, including that stemming from cultural differences, which it normally succeeds in doing through compromise, reconciliation and negotiation. This task targets both the public and private domains, especially State institutions, in which occurs almost daily cooperation between managers and users such as patients, customers, students, or employees who, when they believe that the effect of a norm* infringes on their rights, request that the method of application of the norm* be modified. Indeed, experience has shown that in any democratic, pluralistic society, cooperation is, in a manner of speaking, inherent in the citizen sphere.

The main characteristic of such cooperation is that it is normally undertaken privately and informally (it does not cause intervention by institutional third parties such as the courts or the Commission des droits de la personne et des droits de la jeunesse). In the course of this exercise, managers can sometimes resort to consultants or community leaders whose varied contributions may include informal mediation. If everything goes smoothly, cooperation leads, to the mutual satisfaction of the parties, to an arrangement that we will call **concerted adjustment**.*

The second sphere is the **legal sphere**. The law imposes on all managers in the public and private domains a formal obligation of accommodation. As we have seen, legal language resorts to the concept of **reasonable accommodation** to refer to relaxation measures or arrangements aimed at countering direct or indirect discrimination* linked to certain personal differences protected by law. We should also point out that the courts may impose certain arrangements, e.g. in the case of the kirpan* or the sukkah.* In most instances, attempts to achieve concerted adjustment having failed, the parties resort to the courts. However, generally speaking, the arrangements are much more often obtained in the citizen sphere than in the legal sphere. As Part III reveals, the field of concerted adjustments is also much broader than that of reasonable accommodation stemming from the legal sphere. Indeed, we might say that, **sociologically speaking, concerted adjustment* not only goes beyond but also precedes reasonable accommodation**.

CONCERTED ADJUSTMENT
Concerted adjustment is usually granted by the manager of a public or private institution following amicable agreement or negotiation with users or employees.

7. Point E in Part III examines the question in greater detail.

When attempts at adjustment fail, which is rare, according to the information that we have assembled until now, a complainant may turn to the legal system. The first step in this process is the Commission des droits de la personne et des droits de la jeunesse, an administrative body that receives and examines complaints concerning discrimination and requests for reasonable accommodation. The Commission obtains the parties' observations and may propose to them mediation or a remedial measure. If the latter is rejected by the party to whom the discrimination is attributed, the case may proceed through legal channels, usually by means of recourse to the Tribunal des droits de la personne. It should also be noted that nothing prevents an individual who believes that he[8] is the victim of discrimination from directly bringing the matter before a regular law court, either the Court of Québec or the Superior Court, depending on each court's jurisdiction.

Moreover, we will speak of **harmonization measures*** or practices to indicate the array of arrangements or forms of relaxation, whether they are negotiated privately or imposed by legal means.

Below are some additional remarks concerning terminology.

- We will avoid using the term "tolerance" as a synonym for openness toward the other or respect for differences. Indeed, we believe that, in certain contexts, the word may have a somewhat haughty connotation that implicitly confirms the superiority of one cultural trait or element over another.
- Similarly, we will take into account the observations of the United Nations, which disapproves of the expression "visible minority" because of its biological reference.
- The term "xenophobia" (hostility to foreigners) is incorrectly used to refer to feelings and expressions of hostility toward members of long-established ethnic minorities in Québec. Such individuals are clearly not foreigners but longstanding fellow citizens. In this instance, we suggest instead the term **heterophobia*** to indicate fear, a malaise or an aversion to what is different rather than foreign.
- Islam* (the religion of Muslims) must not be confused with Islamism* (currents, often radical or fundamentalist,* that combine the religious and the political).[9]

REASONABLE ACCOMMODATION AND CONCERTED ADJUSTMENTS MUST NOT BE CONFUSED

While reasonable accommodation lies within the legal sphere, concerted adjustments are inherent in the citizen sphere. They are based on the ideal of the most harmonious management possible of living together and are achieved outside the courts.

INTERCULTURAL HARMONIZATION PRACTICES

Such practices encompass all forms of relaxation or arrangements in favour of an individual or a minority group threatened with discrimination. Reasonable accommodation and concerted adjustments are two forms of intercultural harmonization.

8. In the interests of stylistic simplicity, the masculine form of pronouns is used and indicates without discrimination both women and men.

9. In addition to the definitions found in the body of the consultation document, Appendix II contains a general glossary.

PART II

OVERVIEW OF THE CONTEXT

Part II of the consultation document is strictly factual and descriptive. It is intended to provide general information on Québec's population[10] and the basic norms that govern living together in our society. We believe that Quebecers who draft briefs may find this contextualization useful.

Québec's population is on the order of 7.6 million, nearly half (47%) of it concentrated in the Montréal area. The overall population continues to rise, but because of the low fertility rate (1.5),[11] net migration[12] is becoming increasingly important as a growth factor: it accounts for over 60% of annual growth in Québec and in Canada, as against 51% in the industrialized nations overall. Such being the case, Québec's fertility rate is the same as that in most Western societies. Compared with Europe, for example, it is slightly higher than the rate observed in countries such as Germany, Switzerland, Spain, Portugal, Italy or Greece, although it also exceeds that of several other countries.[13]

One important piece of information concerns the ageing of the population: the 65 or over age group accounted for 5% of Québec's population in 1941 and 13% in 2001. It will be on the order of 30% by 2050.[14] Even if current immigration and fertility rates are maintained, the total population will start to decline after 2031, which means that immigration will remain for a long time a basic given in Québec's demographic dynamic. It may even need to increase since, starting in 2020, immigration alone will ensure population growth.[15] However, the importance of immigration is not entirely new in our history as, since at least the 1960s, Québec has ranked among the top 10 host countries of immigrants* among the OECD countries.[16]

However, what is new at present is that Québec is retaining greater numbers of newcomers. In January 2000, the retention rate stood at 77% for immigrants admitted between 1989 and 1998, as against 80% in 2007 for immigrants admitted between 1996 and 2005. Similar data were produced in the early 1980s but they are scarcely used because of methodological problems. They nonetheless allow us to conclude that the retention rate is significantly higher now than it was in the past.

DEMOGRAPHIC DATA

Québec's population stands at 7.6 million, nearly half of it concentrated in the Montréal area. Some 88% of immigrants in Québec live there, where they account for 19% of the population (9.9% of the population of Québec).

10. Population data and changes in such data are drawn from Statistics Canada Census data. Information on immigration is drawn from the database on landed immigrants of the ministère de l'Immigration et des Communautés culturelles du Québec, processed by demographer Victor Piché, an honorary professor at the Université de Montréal. Other sources will be explicitly indicated, if need be.

11. This is the total fertility rate, i.e. the average number of children born to a woman, which is one of the most widely used measurements to compare the reproductive rates of populations. The minimum population replacement rate is deemed to be 2.1 (Institut de la statistique du Québec, *Données sociodémographiques en bref*, Vol. 8, No. 2, February 2004, 8 pages, page 2).

12. Net migration includes total international migration (arrivals and departures) and interprovincial migration (arrivals and departures). It is the international balance of migration that explains the importance of net migration in annual population growth, since the interprovincial balance of migration has been negative since 1963, except for 2003 (Institut de la statistique du Québec, *Migrations internationales et interprovinciales, Québec, 1971-2006*, 2007; Id., *La situation démographique au Québec, bilan 2006*, 88 pages, Chapter 2, pages 39-46 [updated December 7, 2006]).

13. *Ibid.*, Chapter 5, page 73.

14. *Ibid.*, Chapter 2, page 45.

15. Institut de la statistique du Québec, *Perspectives démographiques, Québec et régions, 2001-2051*, 2003.

16. United Nations, *Trends in Total Migrant Stock, 1960-2000, 2003 Revision*, Population Division, Department of Economic and Social Affairs, 2004.

What is also new is the more diversified nature of immigration, which is apparent in the ethnic profile of the population: Quebecers of other than French or English origin accounted for 2.2% of the overall population in 1901, 10.4% in 1971 and 22.2% in 1991. Data on ethnic origin are no longer comparable after 1991 but, according to certain estimates, the proportion for 2007 will be on the order of 25%. At the same time, the countries of origin of immigrants are much more diversified and now encompass all of the continents. Religious affiliation also reflects cultural diversification: it is estimated that over 200 religions are now represented in Québec. Among the main religions, Islam* has grown the fastest, from 0.7% of the Québec population in 1991 to 1.4% in 2001, when Muslims accounted for 11.1% of immigrants.

A COMPARISON

The proportion of immigrants residing in the Greater Montréal area (19%) or on Montréal Island (27.6%) is fairly low compared with other major Canadian cities, e.g. immigrants make up 44% of the population of Toronto and 38% of the population of Vancouver. However, the proportion of immigrants in Québec is slightly higher than in the developed nations overall.

Ethnocultural diversity is also a structural given in Québec's population, one that must always be dealt with. Moreover, we know that it is massively concentrated on Montréal Island.[17] Such being the case, the proportion of Quebecers whose mother tongue is French is fairly stable (81.4% in 1986 and 80.9% in 2001).[18] The proportion of Quebecers of French (or French-Canadian) ethnic origin has thus declined (it is on the order of 70% in 2007), although this decrease has been offset by the arrival of immigrants* whose mother tongue is French (in particular from North African countries). Similarly, according to the 2001 Census, nine Quebecers out of 10 said they belonged to a "Christian" religious denomination and more than four out of five (80%) said they were Catholic.

It should be noted that in 2001 immigrants accounted for 9.9% of Québec's population, as against 6.6% in 1871 and 8.8% in 1931. This proportion is relatively low when compared with the proportion in Canada (18.4%), Ontario (26.8%), British Columbia (26.1%) or Alberta (14.9%), but is similar to that of the developed nations and slightly higher than that of the European countries.[19] Moreover, most of the immigrants established in Québec (80%) are concentrated in the Greater Montréal area.[20] They account for 19% of the population in this region and 27.6% of the population of Montréal Island. These percentages seem high but are largely surpassed by the Greater Toronto Area (44%) and Greater Vancouver (38%). The proportion of immigrants is very uneven in the Montréal boroughs, ranging from 12% in Lachine, Mercier-Hochelaga-Maisonneuve and Île-Bizard–Sainte-Geneviève–Sainte-Anne-de-Bellevue to over 40% in Côte-des-Neiges–Notre-Dame-de-Grâce or Villeray–Saint-Michel–Parc-Extension, as against only 2.9% in the agglomeration of Québec City (2001 Census).

17. According to the 2001 Census, respondents who said they were of "Canadian" or "French" origin accounted for 45% of the population on Montréal Island and 62% of the suburban population.

18. The population whose mother tongue is other than French or English is growing; it increased from 6% in 1986 to 10% in 2001. This upturn has occurred partly at the expense of the population whose mother tongue is English, which decreased from 8.9% to 7.8% during the same period. The other category that declined is individuals who declared more than one mother tongue. It should also be noted that mother tongue and ethnic origin or country of origin are two distinct indicators that should not be confused.

19. United Nations, *Trends in Total Migrant Stock: 1960-2000: 2003 Revision*, Population Division, Department of Economic and Social Affairs, 2004.

20. This concentration is very high. The Greater Toronto Area, for example, accounts for only 17% of the immigrants established in Canada. Comparable percentages in other cities: Paris (17.5%), London (39.6%), New York (14.5%) and Sydney (30.1%).

From a linguistic standpoint, knowledge of French and English-French bilingualism has increased markedly in recent years. Between 1980 and 1984, 38% of newcomers knew French or were bilingual, a proportion that reached 50% in the period 2000-2004. Similarly, between 2001-2003 and 2004-2006, the average proportion of newcomers who knew French stood at 49% and 57%, respectively. It should also be noted that knowledge of French is a factor in the retention of immigrants, which is to the advantage of the French-speaking majority. In the allophone* population (other than French-speaking, English-speaking or aboriginal) established in Québec, the proportion of individuals able to converse in French totalled 47% in 1971 and 74% in 2001.

DEMOGRAPHIC DECLINE
Québec's fertility rate is similar to that in most Western nations and immigration is thus essential for population growth, which in turn means broader ethnocultural diversity.

In short, certain key demographic parameters in French-speaking Québec have not changed significantly. In relation to the North American continent, Quebecers form a minority culture. In Québec, they form a majority culture, which, despite fairly reassuring signs, continues to entertain a certain anxiety about its future, in particular against a backdrop of globalization. Through natural movement alone (balance between births and deaths), the population is less and less able to ensure its growth and the deficit is being offset through immigrants, many of whom are not French-speaking. To these data must be added a political dimension, inasmuch as Québec's demographic weight in Canada overall is declining steadily (36.5% of the population of Canada in 1851, 28.9% in 1951 and 23.5% in 2006). On the other hand, we must emphasize that key indicators of francization are rising and that French-speaking Quebec displays considerable vitality.

One of Quebecers' most frequently mentioned concerns is the absence (or perceived absence) of criteria that either allow for better management of harmonization practices related to cultural differences, especially religious ones, or better ensure the integration of newcomers. Québec has, all the same, acquired institutions, norms and guidelines that are components of what can be called a common civic framework or, in common parlance a "common public culture" that governs living together. For the purpose of the impending consultation, it would be useful to examine its nature and scope. What are the basic texts underpinning our common and the guidelines that they provide?

We should first note that Québec's political system is both democratic and liberal. It is democratic inasmuch as political power is vested, in the last analysis, in the hands of the people, which delegates such power to representatives who exercise it on their behalf for a given period of time. Our democracy is thus representative,* but is also liberal in that individual rights and freedoms are deemed to be fundamental and are confirmed and protected by the State.

We often lose sight of the extent to which the legitimacy of our political system rests on the complementarity between these two factors, i.e. its democratic and liberal nature. This system is democratic since, as we have said, the people are sovereign. All citizens are the ultimate holders of political power and are deemed to be equal. Everyone may in principle participate in political debate and exercise the right to vote. Since citizens often disagree on political questions and vote for different parties, majority rule rightly prevails in a democracy.

QUÉBEC'S POLITICAL SYSTEM
Québec is a liberal democracy. Representatives of the population are elected and the government of the majority undertakes to respect the basic rights and freedoms of all citizens.

The Québec democratic regime is also liberal, since it protects rights and freedoms from possible abuse by the majority. No one would wish, for example, for a government, even a duly elected one, to flout the basic rights of a group of citizens in the name of the majority's interests. It is precisely to ensure additional protection of the rights and freedoms guaranteed to all citizens that such rights and freedoms are enshrined in a charter, which lays down limitations on government action and provides a framework for relations between citizens.

These two characteristics, democracy and liberalism,* are equally basic and it is their complementarity that legitimizes our political system. It is important for these two principles of political legitimacy to be kept in balance to ensure respect for the equality and freedom of citizens.

Strictly speaking, a society need not have adopted a charter of human rights and freedoms to be liberal, as defined earlier. However, the adoption of such a charter unquestionably reflects a firm commitment to defend the basic rights of all citizens. Québec displayed this willingness in 1975 by adopting the *Charter of Human Rights and Freedoms*. Canada did the same by incorporating a Canadian charter of rights and freedoms into the *Constitution Act, 1982*. These charters come in the wake of the United Nations *Universal Declaration of Human Rights* adopted in 1948.

It is not germane to examine here in detail the Canadian and Québec charters. Let us simply note that they both enumerate an array of rights and freedoms that citizens may exercise, e.g. the right to life and equality, freedom of conscience and religion, freedom of expression and association, and political rights and legal guarantees. It should also be noted that, unlike the Canadian charter, the Québec charter recognizes economic and social rights, such as the right to attend public schools. All citizens must be able to exercise in full equality all of these rights and freedoms, since they are deemed to be equal in dignity. The preamble of the Québec charter states that "all human beings are equal in worth and dignity, and are entitled to equal protection of the law."

In this spirit, the Québec charter stipulates, in particular, that:

- "Every human being has a right to life, and to personal security, inviolability and freedom." (section 1)
- "Every person is the possessor of the fundamental freedoms, including freedom of conscience, freedom of religion, freedom of opinion, freedom of expression, freedom of peaceful assembly and freedom of association." (section 3)
- "Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap." (section 10)

Let us add that, taken individually, these rights and freedoms are not absolute. They must be exercised with respect for the rights of others and the collective interest. "[T]he rights and freedoms of the human person are inseparable from the rights and freedoms of others and from the common well-being." (preamble to the Charter)

Even the promotion of cultural diversity cannot call into question this commitment.

THE CHARTER OF HUMAN RIGHTS AND FREEDOMS
The Québec Charter stipulates the rights and freedoms that all citizens may exercise, e.g. the right to life and equality, freedom of conscience and religion, freedom of expression and association, and so on.

In Québec, [illegible].[21] The *Charter of the French language* (Bill 101), adopted in 1977, stipulates that "French [is] the language of Government and the Law as well as the normal and everyday language of work, instruction, communication, commerce and business."[22] Québec's language policy therefore seeks to promote French as the common public language. However, Bill 101 does not cover the language that individuals use in the home or in their private lives.

In keeping with Québec society's liberal nature, the government has committed itself to promoting French as the common public language, in a spirit of respect for the linguistic minorities in its territory:

- "The National Assembly intends to pursue this objective in a spirit of fairness and open-mindedness, respectful of the institutions of the English-speaking community of Québec, and respectful of the ethnic minorities, whose valuable contribution to the development of Québec it readily acknowledges."
- "The National Assembly of Québec recognizes the right of the Amerindians and the Inuit of Québec, the first inhabitants of this land, to preserve and develop their original language and culture."

Preamble to the Charter of the French language

FRENCH AS THE COMMON PUBLIC LANGUAGE
French is the official language of Québec. Québec's language policy seeks to promote French as the normal, usual language of instruction, communication, commerce and business, in a spirit of respect for the linguistic minorities in its territory.

21. Chapter 1, *Charter of the French language*
22. Preamble, *Charter of the French language*

French is also the language of integration in Québec. Through provisions in Chapter VIII of the *Charter of the French language* focusing on the language of instruction, French-language Québec schools, attended by students of diverse origins, have become a crossroads of integration and learning togetherness. The French language is the main medium that allows Quebecers of all origins to learn about each other, interact, cooperate and participate in the development of Québec society.

In recent years, commentators have suggested that Québec should review its model for the integration of newcomers and specify the basic rules governing collective life. It may well be that this model must be revised, in keeping with uninterrupted reflection on this topic since the 1970s. It is generally agreed that the main thrust of Québec's integration policy was initially defined in 1981 in *Québécois–Each and Every One*,[23] which rejected federal multiculturalism* policy in favour of a policy of "cultural convergence."

Below are some highlights of the action plan.

- Quebecers are defined as a French nation.
- French culture is the focal point of convergence of minority cultures, which must be preserved original and living wherever they express themselves.
- The three objectives of the action plan were to (a) ensure the maintenance and development of the cultural communities; (b) heighten awareness among French-speaking or English-speaking Quebecers of the contribution made by the cultural communities; and (c) foster the integration into Québec society of the cultural communities, especially in sectors where they are under-represented, e.g. in the public service.

A second text that might be deemed to be fundamental is the *Énoncé de politique en matière d'immigration et d'intégration* adopted in 1990, which proposed the notion of a "moral contract*" that establishes, in a spirit of reciprocity, specific commitments by the host society and newcomers. The integration framework proposed adopts the basic principles mentioned earlier, i.e. Québec is a liberal democracy* in which French is the common public language, and specifies the nature of the desired relationship between the host society and immigrants.

QUÉBEC'S INTEGRATION POLICY
Immigrants are encouraged to learn French and participate in Québec society's cultural, economic and political vitality. In return, the State undertakes to facilitate their integration.

23. *Québécois–Each and Every One* (action plan for the cultural communities), Québec, 1981, 78 pages. To our knowledge, this action plan dating from 1981 is the first government document to sanction the notion of a "cultural community."

The *Énoncé* stipulates that Québec is:

- a society in which French is the common language of public life;
- a democratic society that expects and encourages all citizens to participate and contribute;
- a pluralistic society, open to extensive cultural contributions within the limits imposed by respect for basic democratic values and the need for intercommunity dialogue.[24]

Immigration is presented as a condition that is essential for the development of Québec society. As for cultural diversity, it is perceived as an asset inasmuch as its expression is guided by the charters of rights and freedoms and it is achieved in a spirit of interaction (civic participation and interculturalism* are encouraged by cultural diversity) rather than a spirit of compartmentalization. Immigrants are invited to learn French and contribute to the cultural, economic and political vitality of Québec society. In return, the government undertakes to facilitate immigrants' integration.

Of course, successive governments can interpret differently any of these policy directions. However, it has been noted that the principles of the civic pact formulated in the *Énoncé* have not been basically altered since 1990. We can, therefore, regard these principles as the foundation of Québec's civic framework and the relationship between the host society and immigrants.

Democratic institutions, human rights charters, the *Charter of the French language* and Québec's integration policy are the main ethical, political and legal foundation of the common civic framework that has, until now, fostered a generally enviable togetherness. These institutions, rules and policy directions define the relations between individuals, groups and the State. Are they still adequate and sufficient in modern-day Québec? This is one of the questions that we hope to put to Quebecers in conjunction with this consultation.

24. *Au Québec pour vivre ensemble. Énoncé de politique en matière d'immigration et d'intégration*, ministère des Communautés culturelles et de l'Immigration, 1990, page 15.

PART III

THE FOUR DIMENSIONS OF INTERETHNIC RELATIONS AND HARMONIZATION PRACTICES

We will briefly examine below each of the four key dimensions of harmonization practices (reasonable accommodation and concerted adjustments) and focus on such practices in a fifth section. To facilitate the task of individuals writing briefs, at the end of each section we formulate a series of questions related to each of the five themes, inspired by the meetings and research we have conducted until now. The questions also reflect those raised during the recent debate on harmonization practices. We believe that they cover Quebecers' key concerns and anxieties. We want the questions to guide reflection by individuals or groups wishing to share their viewpoints with the Commission.

THE FOUR DIMENSIONS OF HARMONIZATION PRACTICES
a) values and rights
b) cultural diversity
c) the integration model
d) secularism

We had to make a difficult decision in this respect. We could have formulated our questions very frankly and directly, by going to the nub of the matter, at the risk of occasionally arousing very strong responses. Or, we could have opted for caution and rectitude by organizing a very quiet, restrained debate. We have opted for the first course. The information that we have collected until now has, indeed, convinced us that broad segments of the population have for a long time suffered from not genuinely or sufficiently expressing themselves on the themes covered by our mandate. Much has remained unsaid and a wellspring of disagreements, discontent, dissatisfaction or even frustration has built up. Nothing is to be gained by perpetuating this situation. We believe, to the contrary, that it is urgent to afford citizens whose voices have not been heard sufficiently an opportunity to express themselves. This will pave the way to more serene, fruitful reflection.

We obviously do not expect every brief to answer all of the questions posed. Above all, we wanted to ensure that we covered various dimensions of a broad range of concerns. The authors of the briefs are free to select among the many questions that we are submitting or to examine all of them in a cursory manner. It goes without saying that our interlocutors are free to broaden the scope of the questionnaire by broaching aspects that are not mentioned here.

A NEW SENSITIVITY
A new sensitivity to human rights and minorities emerged in the West in the second half of the 20th century. It seems difficult to revert to old models of integration based on the assimilation of immigrants.

VALUES AND RIGHTS

OVERVIEW

Like most Western nations, Québec seeks to be a democratic, pluralistic society, i.e. one that both respects basic or human rights and cultural differences. We now acknowledge that immigrants' cultures are entitled to coexist with other cultures already established in the territory, whether the culture of the aboriginal peoples, the French-Canadian founding culture, the Anglo-Québec culture or the cultures of other minority groups. This new sensitivity to human rights, minorities and the other stems from decolonization movements in the second half of the 20th century, the horrors of World War II, and the lessons that we have drawn from them. Starting in the 1960s, it also drew new inspiration from the search for authenticity or the recognition of social groups, such as aboriginal peoples, women, racialized groups* and homosexuals, whose identity had hitherto been denied. It is thus impossible to revert to the old model of collective integration that consisted either in the assimilation* pure and simple of immigrants, who lost or renounced their culture of origin, or in their exclusion.

To different degrees and following different courses, the Western nations have embraced this sensitivity, which is reflected in a social ethic and in policy. It is in this spirit, for example, that Québec adopted in 1975 a charter of rights and freedoms and established the Commission des droits de la personne. There is now a broad consensus on certain basic values that have pride of place in our society, in particular respect for individual freedoms, solidarity, civic participation, democracy, equality (particularly between men and women), pluralism,* French as the common public language, secularism, and pacifism (antimilitarism and the peaceful resolution of conflicts).

THE INTERCULTURAL MODEL
Québec has, in recent decades, promoted interculturalism, which seeks to combine on an equal footing respect for diversity and the imperatives of collective integration.

Do you agree with the so-called Québec values mentioned above? Do you deem these values to be organized hierarchically or should certain values have priority?

From the standpoint of so-called Québec values, or the values that we would wish eventually to promote in our society, which values would you like to add to those already mentioned?

Jurists maintain that there is no formal *a priori* hierarchy between the rights stipulated in the charters but we must strike a balance between them. Do you believe instead that certain more basic rights should take precedence over other rights?

What importance do you attach to the freedom of religion in relation to the other rights and freedoms specified in the Québec charter? What do you perceive to be the meaning and scope of this freedom?

CULTURAL DIVERSITY

OVERVIEW

As is the case in most Western societies, ethnocultural diversity has also become a basic given in Québec (see point A in Part II). However, this diversity is very unevenly distributed over the territory. Indeed, nearly 90% of newcomers settle in the Montréal area. On Montréal Island, 28% of the population was born abroad and roughly 120 ethnic groups have been counted there. It should be noted that one or both parents of 53% of students attending public schools are immigrants. According to data for 2006,[26] 136 public schools out of 411, i.e. one-third, meet the multicultural concentration criterion, i.e. half or more of the students come from a culture other than French or English. The vast majority of these schools, i.e. 125 out of 136, are in the French-language sector and in 35 out of the 125 schools, over 80% of the students come from another culture. According to a survey conducted in 2005,[27] students in the Commission scolaire de Montréal come from 180 countries and speak 150 mother tongues.[28]

Many more refined indicators paint a similar picture. For example, between 50% and 60% of patients admitted to the Hôpital Sainte-Justine are of origins other than French-Canadian. At the École secondaire Saint-Laurent (1 250 students, two-thirds of them born outside Québec), 68 mother tongues are spoken and 105 countries are represented. In an economics course given at the Université du Québec à Montréal in the winter of 2007, 93 students out of 117 were of foreign origin, i.e. other than French-Canadian or English-Canadian origin.

These data reflect the importance of immigration and the changes that it has wrought in our society's culture. The diversity that it highlights is, obviously, very familiar to Montrealers. It is perhaps somewhat less so to Quebecers from the regions, which makes this reminder pertinent. These data also help us to understand why Québec has gradually abandoned since the 1960s its old model, based largely on a philosophy of assimilation that scarcely recognized anything but the French-Canadian nation in its territory.[29] In recent decades, Québec has promoted what is commonly called interculturalism. This model of pluralism* has, to some extent, become the hallmark of our society in the realm of interethnic relations. Its main characteristic is that it seeks to combine on an equal footing two elements that are *a priori* hard to reconcile, i.e. respect for diversity and the imperatives of collective integration. Ideally, it establishes between these two poles a creative tension that is a source of flexibility and adaptation.

Several analysts believe that this trait marks a difference between the Québec model and Canadian multiculturalism.* It is true that, when it emerged in the late 1960s, multiculturalism showed greater concern for respect for diversity than for integration. It should be noted that it was the ethnic minorities from Western Canada whose ancestors emigrated from central Europe who were the first to demand multicultural policies in Canada. These populations, which were seeking recognition of their identity, were among the best integrated. This factor did not pose a problem any more than language did. In comparison, Quebecers make up a French-speaking minority whose cultural and, in particular, linguistic survival has always been a source of anxiety.

25. Ministère de l'Immigration et des Communautés culturelles, Direction de la recherche, *Portrait de Montréal*, 2007.

26. Commission scolaire de Montréal, Comité de gestion de la taxe scolaire de l'île de Montréal, *Portrait socioculturel des élèves inscrits dans les écoles publiques de l'île de Montréal – Inscriptions au 30 septembre 2006*, May 2007.

27. Commission scolaire de Montréal, *Politique interculturelle de la Commission scolaire de Montréal*, 2006, page 1.

28. Our analysis here centres less on the English-speaking sector than on the French-speaking sector given that, since the coming into force of Bill 101, it is the latter sector that receives most immigrant children. The task of accommodating such children has grown considerably in the sector.

29. This observation demands an important nuance. Catholic immigrants, e.g. Italian and Irish immigrants, have not been assimilated (except those that have chosen to be). They can generally be deemed to have been integrated, especially in the education system. However, the French-Canadian elites have never regarded them as being part of their nation.

These historic and structural details shed light on the specificity of the two models, at least at the time of their inception. Over time, it might be said that they have evolved in a convergent manner and the difference between them has faded. Such being the case, Québec interculturalism continues to affirm its originality as a form of pluralism. It contains the idea that, in the long run and according to a transcultural* dynamic, each culture will borrow something from the others and contribute to the development of Québec culture, while preserving its specificity.

MODELS OF INTERCULTURAL RELATIONS

There are several strikingly different conceptions of the management of interethnic relations:

a) assimilation
b) the mixing of cultures
c) interculturalism
d) multiethnicity or communitarianism
e) republicanism or the civic nation

DIVERSITY AND COHESION

- What advantages and merits do you perceive in ethnocultural diversity?
- What do you think are its drawbacks?
- Some people fear that diversity is fragmenting our society to the point of hampering its functioning. What do you think?
- What conditions must an immigrant satisfy to be deemed a full-fledged Quebecer?
- Do you believe that the existence of a strong French-Canadian identity, which some people confine to the descendants of the first French settlers in Canada, can be a source of malaise for Quebecers of other origins, or even an obstacle to their integration?
- Do you agree with the notion of a "cultural community" in the Québec context?
- What do you think of the organization of leadership in these ethnic groups? Some people perceive a problem of representativeness. What do you think?
- Do the leaders of these communities focus sufficiently on women's problems? Does public discourse in general pay sufficient attention to such problems?
- Is Québec nationalism a source of malaise for immigrants?

A QUÉBEC IDENTITY AND CULTURE

- Until the 1960s, French-Canadians perceived themselves as a nation that spanned Canada from sea to sea. Starting with the Quiet Revolution, another perception emerged and gradually gained importance, that of a French-speaking Québec nation confined to Québec's territory but encompassing all of its inhabitants. Do you agree with this conception? How do you justify your position?
- To what extent and how in your opinion should French-Canadian culture permeate what we are calling Québec culture?

How can we reconcile the affirmation of French-Canadian culture with the diversity that ethnic minorities and immigrants embody? How can we imagine the coexistence or structuring of these cultures? Should Québec seek to establish a common identity, several identities or a compromise between the two possibilities?

Do you perceive the culture inherited from the French-Canadian past as being threatened by intercultural* harmonization practices? In what way?

How do you perceive yourself, first and foremost: as a Quebecer, a French-Canadian, a Canadian or otherwise?

INTERCULTURALISM AND MULTICULTURALISM

What is your opinion or conception of multiculturalism?

How, in your view, does multiculturalism differ from interculturalism?

What is your assessment of the impact that the interculturalism model has had on Québec society in recent decades?

MODELS

If you had to choose a policy to govern from now on intercultural relations in Québec, which one of the following models would you advocate?

Assimilation*: Newcomers abandon their culture of origin (language, traditions, customs, and so on) and adopt Québec culture. In the long run, the members of the ethnic minorities or cultural communities would be asked to do the same.

The mixing of cultures* (or the melting pot): All citizens, including newcomers, and all ethnic groups are placed on the same footing and no culture must have legal or *de facto* precedence over another. Therefore, everyone is expected to accept the gradual transformation of his culture, which merges into a new culture.

Interculturalism: Immigrants and members of minority groups who so desire preserve the essential elements or a substantial portion of their culture but by combining it with elements of the majority culture. They borrow from its basic values and customs, adopt the French language, and share the national heritage and the Québec identity. In return, the majority culture also changes by incorporating elements of the minority cultures. Integration and diversity are the two poles of interculturalism. Through these processes, Québec culture remains centred on French and largely sustained by the French-Canadian tradition. However, the cultural difference survives because of a dynamic of interaction that respects the other and strikes a constantly shifting balance between integration and diversity.

Note: We invite you to pay special attention to interculturalism since it is the model that has been promoted in Québec for several decades. Do you think that this model must be abandoned for another one, thoroughly reformed or preserved provided that it is somewhat altered?

Multiethnicity* or communitarianism*: Immigrants and ethnic groups in Québec maintain their cultures with a minimum of interaction or mixing with the other cultures. Public institutions that define the civic rules of collective life such as individual rights, equality and non-violence oversee all of these cultures, i.e. French-Canadian, Anglo-Québec, Jewish, aboriginal, and so on. This is a radical* version of multiculturalism in that, according to other versions, multiculturalism is very similar to interculturalism. This radical version is a variant of the plurinational model,* which consists, for example, in recognizing as a nation in the Québec context French-Canadians, Anglo-Quebecers and aboriginals.

Republicanism: The nation is defined mainly with reference to an array of rights, rules and public institutions. Particularisms stemming from ethnicity* and the realm of the identity are reduced to a minimum. Minority cultures are not formally recognized. Overall, the cultural element is overshadowed by the legal and political spheres. The so-called civic nation* model, in its radical sense, can be considered a form of republicanism. In the context of debate in Québec, however, this model has been given different meanings.

Other models?

Integration from a collective or societal* standpoint in a democracy encompasses the processes through which a community organizes its institutions, social relations and culture in a way that arouses the support of the greatest number of its members. At the individual level, integration is also a series of choices by virtue of which a citizen participates fully, if he so desires, in the life of the society, especially in the public sphere, and develops according to his traits and orientations.

The integration of newcomers into Québec society should, logically, be modelled on the intercultural philosophy and rely on equitable social relations. However, it should be noted that diversity, in itself, can lead to unequal opportunities to the detriment of minorities and, even more, immigrants. The language, culture and institutions of the host society are all factors that can hamper social success. A genuinely pluralistic society has a duty to adopt measures to counteract inequalities that impede integration. Stereotypes, the discrimination that they engender and various forms of racism are a well-known source of social marginalization that demands constant vigilance on the part of citizens.

OCCUPATIONAL INTEGRATION
Employment is the key to the integration of immigrants, who are often recruited in their country of origin for their education and skills. Many of them find that their skills are not recognized upon their arrival in Québec.

a) Socioprofessional integration

Another basic dimension of the integration of immigrants concerns occupational integration. It is well known that employment is the key to integration. A number of immigrants who were selected in their country of origin for their professional qualifications discover upon arrival in Québec that their skills are not recognized and that they must be entirely or partially retrained. This is a source of frustration, one that hampers integration. Let us mention here an important piece of information drawn from the 2001 Census: **in Québec, immigrants are better educated than native* Quebecers** (22% of them have a university degree as against 13% for the others). Consequently, certain immigrants regret even after several years the decision to settle in Québec.

Certain groups of Quebecers already established here are facing the same obstacle. For example, greater numbers of Quebecers of African origin, whose level of education is comparable to that of the population overall, are unemployed, have lower average incomes and are more extensively affected by poverty. Similarly, **the members of the ethnic minorities account for 12% of Québec's population but only 2.6% of permanent public servants.**

SHARED RESPONSIBILITY

Québec and Canada share jurisdiction over immigration. Over the past five years, Québec has selected two-thirds of its immigrants.

An equitable integration model should seek to ensure participation by everyone in public institutions and public life. In this respect, the education of children is a priority objective. As we have seen, harmonization practices also come into play at this level. Indeed, one of their principal reasons for being is to maintain in the public school system students subject to marginalisation because of their religion or culture.

b) The recruiting of immigrants

The first question that arises concerns the number of immigrants to be accepted. Let us examine, for information purposes, the framework in which the Québec government establishes the number of immigrants and its policy directions. Immigration has traditionally been a field of jurisdiction shared by Québec and Ottawa. However, under the Cullen-Couture Agreement concluded in 1978, Québec obtained certain additional powers that allow it to select its would-be immigrants (selection criteria, number of immigrants, composition). Two other complementary agreements were reached in 1990 governing immigrant investors and resident aliens.*[50] As a result of these agreements and various statutes adopted subsequently, there are three categories of permanent immigrants, i.e. individuals admitted under family reunification or sponsorship programs, economic immigrants,[51] refugees[52] and three categories of temporary immigrants, i.e. temporary workers, foreign students and foreign nationals seeking medical treatment.

Québec has sole responsibility for:

- setting the number of immigrants that it wishes to admit to the province;
- selecting candidates in the economic immigration category;
- selecting refugees living abroad;
- organizing reception and integration services.

Canada is solely responsible for selecting sponsored individuals under the family reunification program and refugees already residing in Canada who obtain permanent landed immigrant status. Since 1992, Québec has engaged in three-year planning exercises designed to set immigration rates and establish the countries or regions in which recruiting takes place that are always accompanied by a public consultation.

50. Individuals residing in Canada without possessing Canadian citizenship, either because they have not resided there for at least three years or because, having fulfilled this condition, they have not applied for citizenship.

51. Qualified workers and investors.

52. Pursuant to the *Geneva Convention* and the *Convention Against Torture*.

It should be noted that the number of immigrants planned in 2007 is on the order of 43 000 to 47 000, while the average annual number of immigrants accepted stood at 38 000 between 2001 and 2003 and 44 000 between 2004 and 2006. It is also noteworthy that over the past five years, Québec has selected two-thirds of its immigrants. In 2006, for example, the newcomers overall can be broken down as follows: refugees (16%), economic immigration (58%), family reunification (23%), and other (3%).

INTEGRATION

- What criteria can we apply to determine whether an ethnic minority or an immigrant is sufficiently integrated into society?
- In light of the criteria that you adopt, what is your assessment of the situation in Québec in this regard, i.e. is there a satisfactory or an unsatisfactory degree of integration?
- What do you think of the following statement, which expresses a fairly widespread perception: "Immigrants refuse to integrate and reject French-language culture"?
- What factors can make difficult or hamper the integration of immigrants into Québec society? How might we remedy them?

EXCLUSION AND DISCRIMINATION

- In a different perspective, do you think that our society makes sufficient efforts to combat discrimination and racism?
- Are Quebecers sufficiently aware of the difficulties that immigrants face upon arrival here?
- How, in particular, can we foster immigrants' occupational integration, bearing in mind the exclusion to which they are subject by educational institutions, health care establishments and professional bodies (non-recognition of degrees, and so on)?
- What might the government and our institutions overall, or even individual Quebecers, also do in this respect?
- Do you think that problems such as occupational integration and social integration that newcomers experience affect immigrant women more than men? Can you give concrete examples? Should specific measures be adopted in this regard?

IMMIGRATION POLICY

- In your opinion, does Québec accept (1) enough, (2) too many or (3) too few immigrants? Explain your reasons.
- Should we alter our existing immigration policy? If so, in what way?

SECULARISM (LAÏCITÉ)

OVERVIEW

A number of religions are found in Québec (pluridenominationality*). According to the 2001 Census, there were 11 religions with 30 000 or more members. However, nearly four-fifths of the population, i.e. 5.9 million inhabitants, said they were Catholic. As Québec Premier Jean Charest has stated several times in recent months, Québec is a secular society, i.e. the sphere of the State (including its institutional extensions) and the sphere of religion are independent and each sphere enjoys its own autonomy.

STATE NEUTRALITY
By virtue of the principle of neutrality, the State may not espouse the visions of the world and profound beliefs of all citizens, which are numerous and sometimes hard to reconcile. It can, however, promote values stemming from such visions and beliefs and that underpin democratic life.

A COMPLEX NOTION
The notion of secularism can be understood in different ways. When defined as the principle of separation between church and State, secularism can sometimes be linked to the neutrality of the State in respect of various religions or world views and sometimes to the more or less complete elimination of the religious life from the public sphere.

a) Separation and neutrality

The principle of separation can, however, be understood in several ways. In its restricted sense, the public sphere can refer to public institutions such as the school system and health care establishments. In the broad sense, it can extend to any space that is deemed to be public, i.e. streets, parks, commercial centres and other places, from which follows an important distinction concerning secularism. Separation can be invoked to ban religion either from the entire public sphere or solely from institutions that are part of the machinery of government. The latter scenario is also somewhat ambiguous. To prohibit religion in institutions that are part of the machinery of government may mean the total elimination of any religious expression or sign in such institutions (radical* or integral secularism*) or the acceptance of a religious presence in a form that does not call into question their neutrality (open secularism*).

The latter possibility must be clarified. A mitigated religious presence in public institutions can manifest itself in many ways, e.g. the wearing by Muslim students of a headscarf, the establishment in educational institutions of prayer rooms, the preparation of special menus for the members of religious groups, the granting of leave for the observation of religious holidays, and so on. All of these distinctions must be taken into account if we are to establish effective dialogue that leads to enlightened choices.

Beyond the principle of autonomy or independence but closely in keeping with the foregoing discussion, secularism also implies the rule of State* neutrality in respect of religions. However, this rule must be clarified. In a society that is both egalitarian and diversified, it is impossible to recognize only one official religion, for example, in the case of Québec, Christianity, since doing so would make members of all other religions second-class citizens. Moreover, the duty to maintain neutrality in respect of all believers also extends to all non-believers. In other words, non-religion and religion, i.e. all visions of the world whether or not they are spiritual, must be recognized and treated fairly.

b) What exactly do we want?
To summarize, this leads us to four proposals concerning secularism:

1. The State and religion must be able to act independently of each other, each one in its respective sphere.

2. The State must not identify itself with a religion or a particular religious or non-religious vision of the world (foundational belief*) since it is the State of all citizens, not all of whom subscribe to the same religion or vision. The guiding principle here is that of the neutrality stemming from equal respect for all citizens. That is a requirement of justice imposed by a society that is diversified not only from the standpoint of religions but, more generally, from the standpoint of visions of the world (and foundational belief*).

3. To the rule of neutrality and equality must be added in respect of the State the duty to protect citizens from the oppression that one religious or secular group might exercise over its members or other citizens just as it would do to suppress different forms of oppression exercised for whatever reason by some citizens over other citizens.

4. In keeping with provisions in the Québec and Canadian charters respecting freedom of religion and freedom of conscience, the State must defend each citizen's right to express through his conduct or otherwise his religion or his vision of the world, within the limits prescribed by law and respect for others.

These four proposals are based, respectively, on the principles of 1) separation, which is the very essence of the relation between the State and religion; 2) neutrality; 3) the protection of rights; and 4) freedom of conscience and religion.

WHAT KIND OF SECULARISM?

a) In your opinion, what kind of secularism should Québec adopt? In other words, how can we define the relation that should prevail between the State (or public institutions) and religion?

b) Is it desirable to exclude any trace of religious life from all public institutions or even in all public spaces? In other words, should we apply the integral secularism* model?

c) Which kind of secularism do you think best embodies equality and pluralism as ideals aimed at avoiding discrimination and encouraging mutual respect?

d) More generally speaking, what value should we ascribe to religious life aside from its doctrinal content, in terms of our cultural heritage? Do you perceive in it a source of humanism and values that can be useful to a society?

e) Has Québec gone too far too fast as regards the establishment of a non-confessional, secular education system? Should we, to the contrary, further pursue this course by excluding any trace of religious life in educational institutions?

CATHOLICISM'S PLACE

- Do you think it is legitimate in Québec to grant special status to Catholicism, given its place in the society's history? Do you think that society overall would accept it?
- What might this special status for Catholicism entail? Give concrete examples.
- How far might we go in this direction?

HARMONIZATION PRACTICES CAN FOSTER THE INTEGRATION OF ALL CITIZENS INTO COMMUNITY LIFE

SEEMINGLY NEUTRAL, UNIVERSAL NORMS CAN BE DISCRIMINATORY IN RESPECT OF CERTAIN INDIVIDUALS OR GROUPS. REASONABLE ACCOMMODATION AND CONCERTED ADJUSTMENT SEEK TO REMEDY THIS SO-CALLED "UNINTENTIONAL" DISCRIMINATION.

It would first be useful to pinpoint the source of this general idea of accommodation or harmonization. In any society in which two or more cultures coexist there arises inevitably the question of the management of diversity or difference. This question has always arisen. Until very recently, it was usually resolved in an authoritarian manner: a more powerful culture sought either to dominate other cultures through marginalization or to eliminate them by means of assimilation. Despite everything, relaxation or reconciliation practices have always existed, even in empires. For several decades, above all in the West, attitudes have changed and the democratic nations, as we noted earlier, have become much more respectful of diversity. The method of managing our life together which takes shape is based on the general ideal of intercultural harmonization."

First, this new orientation essentially promotes pluralism, i.e. respect for minority traits and customs, which allows each citizen to develop freely according to his choices and characteristics. Second, it is also aimed at the complete integration of all citizens (at least, those who so desire) into collective life. In the spirit of this international change that is introducing the world over the respect for diversity, this is a twofold responsibility that extends to all normative bodies or centres in a society, i.e. government, health care establishments, schools, the family, businesses, the courts, churches, volunteer associations, and so on.

a) Concerted adjustment and reasonable accommodation

This new vision or sensitivity underlies the principle of concerted adjustment. It has been observed that the vision has gradually made inroads among Western intellectual and political elites. According to different procedures and at different paces, in fits and starts, it is now penetrating national cultures. In Québec, for example, our research reveals that harmonization measures are already part of everyday life in a number of public institutions such as health care establishments, schools and universities.

At the same time as this change in the citizen sphere and perhaps in its wake, a new tradition has emerged in the field of law. It has taken concrete shape over the past 20 years in the legal mechanism called reasonable accommodation. Unlike concerted adjustment, this mechanism creates a formal, legal obligation. However, the logic underpinning it is the same one found in concerted adjustment. It is summarized below.

Harmonization practices are dictated by the basic principle of equality and equity. Indeed, the duty of accommodation is intended to ensure the fairness of the rules in keeping with section 10 of the Québec charter and section 15 of the Canadian charter. What immediately follows is an ethic of reconciliation that encompasses all social actors, in particular public and private managers. The intended objective is to counter certain forms of intentional or unintentional discrimination that the courts have traditionally described as indirect, i.e. those, which, without directly or explicitly excluding an individual or a group nonetheless lead to discrimination stemming from a prejudicial effect. This type of discrimination arises from the rigid application of a norm under certain circumstances pertaining to employment, public and private services, housing, and so on. It should be noted, however, that pursuant to recent court decisions, some forms of direct discrimination in their effect can now lead to solutions that also fall under reasonable accommodation.[33]

For illustration purposes, let us consider the rule prohibiting students from bringing syringes into the classroom. The life of a diabetic child might thus be threatened, which explains the relevance of the relaxation of the rule. Similar concerns govern the adjustment of certain rules in the workplace, e.g. the relaxation of mandatory dress codes to accommodate pregnant workers. The same principle applies to the allocation of parking spaces and the installation of toilets or access ramps for the disabled.

In the absence of an adjustment of the rules, these individuals could be put at a disadvantage or excluded, thus compromising their right to equality. In these situations, the **duty of accommodation created by law does not require the cancellation of a rule or the withdrawal of a general prohibition** but only the mitigation of their effect on such individuals by granting an exception to the rule, an exemption from the prohibition or a special adaptation. In addition to the prohibition of discrimination, the judges are asking managers and employers to be proactive by seeking concrete measures likely to foster equality in society.

REASONABLE ACCOMMODATION IS NOT A "PRIVILEGE"
The obligation to accommodate is based on the general principle of equality and fairness and on other rights, including the right to freedom of religion.

A TREATMENT CAN BE DIFFERENTIAL WITHOUT BEING PREFERENTIAL

33. Accommodation cases stemming from indirect discrimination are by far the most common ones (roughly nine cases out of 10).

This obligation to accommodate is obviously not unlimited and is governed by functional criteria usually indicated by the term "undue hardship,*" i.e. the burden stemming from a request for accommodation in light of its cost or the bureaucratic red tape that it engenders. Moreover, the definition of undue hardship* also implies a limit in principle to the possibility of injuring other people's rights.

In keeping with the law, the harmonization measures requested or granted for religious reasons follow the same logic. For example, let us take the case of Jews or Muslims who have obtained leave to celebrate their religious holidays, as do Catholics, who, almost without exception, have always been allowed to absent themselves from work on Sunday, at Christmas and at Easter. Once again, it is the rule of equality or fairness that prevails: what is legitimate for one religion is legitimate for the others. On account, in this instance, of freedom of religion and, more specifically, the right of any citizen to practice his religion, a secular State funds chapels in detention centres. Race, nationality (ethnic or national origin) and sexual orientation are other reasons for direct or indirect discrimination* covered by the duty of accommodation.* It should also be noted that, in law, this type of relaxation stems from the Québec charter and that the Québec courts have explicitly recognized this provision.

b) Why do we need harmonization measures?

Each of these cases illustrates the logic at the heart of harmonization measures. From a sociological standpoint, it has been observed that a number of apparently neutral, universal norms in fact reproduce visions of the world, values, and implicit norms* that are those of the majority culture or population, e.g. restaurant, airline or cafeteria menus, which used not to take account of vegetarians or individuals with allergies. Even if such provisions did not exclude *a priori* any individual or group, they can nonetheless lead to discrimination towards individuals with specific traits such as a temporary or permanent physical disability, or because of their age or religious beliefs. It follows that absolute rigour in the administration of legislation and regulations is not always synonymous with fairness.

It is thus apparent that uniformity or homogeneity is not a necessary consequence of the right to equality and freedom of religion. According to jurists, a given right can sometimes demand different treatments that must not be placed in the same category as privileges, since they remedy a shortcoming in the administration of a statute or a regulation. To summarize, in the words of the experts, a treatment can be differential* without being preferential. We are thus dealing with two conceptions, not of the right to equality but of the method of its application, i.e. (a) a formal, doctrinal, very rigid conception, or (b) a nuanced, flexible conception that is more inclusive because it focuses more directly on the diversity of situations and individuals.

RECENT IMMIGRANTS DO NOT FORMULATE MOST REQUESTS FOR REASONABLE ACCOMMODATION

c) Misunderstandings

The foregoing comments enable us to clear up three misunderstandings. First, and contrary to widespread popular belief, it seems to be well established that complainants are less often immigrants than members of ethnic minorities who have been settled for some time and, occasionally, a long time, in Québec. Second, in a similar vein, it is useful to point out that harmonization requests do not stem solely from religions introduced into Québec by recent immigrants. Protestants and Catholics alike benefit from them by virtue of their beliefs (a day off on Sunday, students exempted from an introductory course on sexuality, nurses exempted from participating in an abortion, a civil registrar who refuses on grounds of conscience to officiate at homosexual marriages).

Some people believe that allowing accommodation or adjustments by invoking the *Charter of Human Rights and Freedoms* is tantamount to exempting individuals from certain norms applicable to everyone, in other words, to granting them privileges. Contrary to this perception, it must be pointed out that taking into account a difference does not necessarily lead to a preference. Harmonization practices target instead broader compliance with provisions in the Charter such that the right to equality, in particular, is applied more integrally and inclusively.

To summarize, like many other Western nations, Québec, too, has followed the trend to pluralism, which leads to harmonization. Moreover, like a number of other nations, it is experiencing a controversy that affords it an opportunity to take stock of the situation. It might be said that four solutions are available: stay the course, change course, make sweeping changes, or back track.

THE MEANING OF THE "CRISIS"

1. How do you interpret recent events and the tensions or reactions that they have aroused? What are their causes, scope and impact?
2. Do you perceive an acute crisis that calls for drastic changes or a problem that could be remedied fairly easily by the appropriate adjustments?

ARE YOU FOR OR AGAINST REASONABLE ACCOMMODATION AND CONCERTED ADJUSTMENT?

1. Overall, what is your assessment of harmonization practices: are they essential, useful, ambivalent, ill-advised or harmful?
2. Should such practices be maintained in their current form, broadened, eliminated or only modified?
3. In the latter instance, in what way?
4. What, in your view, are the main advantage and the main drawback to such practices?
5. Could you give examples of harmonization measures that strike you as (1) entirely acceptable and (2) downright exaggerated, and justify your choice?
6. Overall, do you believe that harmonization practices (1) are a necessary mechanism in a diversified, democratic society and a rudimentary gesture of openness to the other; or (2) that they represent the abdication by Quebecers of French-Canadian origin and the repudiation of their culture?

GUIDELINES

Do you fear that harmonization practices will go wrong and get out of control?

If so, how do you justify this fear?

If need be, what guidelines and criteria could be established to set an acceptable limit on harmonization practices?

Do you believe that, as part of the solution, the Québec charter and, perhaps, the Canadian charter, should be amended? If so, in what way?

ACCOMMODATION FOR RELIGIOUS REASONS

How, specifically, would you handle harmonization requests based on religious reasons?

Do you think that these requests should be examined differently depending on whether Christianity or other religions are in question? In other words, must all religions be deemed to have equal value in the Québec context?

Does this type of request seem as admissible as requests formulated for health reasons, for example?

Do you agree with the position adopted by the Supreme Court of Canada, which, in the handling of these cases, relies on a subjective* or personal conception of religion instead of a more doctrinal or "objective" conception?

Do you believe that harmonization practices risk compromising the principle of gender equality, especially in certain religious groups?

If so, what remedies might be adopted?

Are you afraid that harmonization practices may supplant the secularization* that has been achieved in Québec society in recent decades?

THE MEDIA

Over the past year, what have been your main sources of information on harmonization practices?

Do you feel that you have been correctly, adequately informed?

Do you have any recommendations to make in this respect?

Which media (radio, television, newspapers) and which commentators (editorialists, columnists, experts, open-line radio show hosts) do you trust the most?

How might the media contribute further to better management of ethnocultural differences?

A SIMULATION EXERCISE

Now you decide, by putting yourself in the position of judges, the managers of public institutions or the directors of organizations. As you will see, the task is not always an easy one.

SIMULATION

To conclude, the Commission would like to invite you to take part in a brief simulation exercise by submitting to your judgment a list of harmonization requests based on actual cases (most of the requests are for adjustments but some of them were brought before the courts). You will put yourself in the position of judges, managers of public institutions such as schools, hospitals, government or municipal services, or the directors of organizations such as businesses or sports associations, who wish to satisfy the needs of their clienteles in a responsible, enlightened manner.

To ensure that you benefit fully from this exercise, we invite you to assess the requests bearing in mind all facets of harmonization practices, i.e. human rights and freedoms, the values of the host society, the notion of secularism, models of intercultural relations, and the dynamic of integration. You will obviously have to decide without having available important information such as the precise context of the case to be resolved or the evaluation of what jurists call undue hardship.* However, remember that this is only a simulation whose main purpose is, above all, to ascertain your perceptions and attitudes.

The outcome of the exercise will be highly enlightening for us. As you can see, some decisions are sometimes hard to make when the rights, values or principles to which we are strongly attached clash. It is now up to you to decide.

NOTE TO RESPONDENTS:
You can submit the results of the simulation:
a) by removing this part of the document and sending it to:

Consultation Commission on Accommodation Practices
Related to Cultural Differences
Case postale 220, succursale B
Montréal (Québec) H3B 3J7

b) or by answering the simulation questions on the Commission's Website (www.accommodements.qc.ca).

For each of the following situations, please choose one of the following responses:

1. Allow, for religious reasons, a child to eat food other than what is offered on the regular menu in his day care centre or school cafeteria.
2. Allow for a special effort by the teacher and students in a class to facilitate learning by an immigrant child who speaks neither French nor English.
3. Authorize a student to abandon an optional course to register in another one because the content of the first course conflicts with certain of his religious beliefs.
4. Exempt a student from a compulsory course because its content conflicts with certain of his religious beliefs.
5. Modify for certain students the scheduling of an exam, which coincides with a religious holiday.
6. In a school, use frosted glass in the windows around a swimming pool or gymnasium to prevent boys or men from seeing girls in bathing suits or sportswear.
7. If conditions allow, officially designate a room as a place of prayer in a university.
8. In a business, propose to employees who have specific family responsibilities (young children, caring for a relative suffering from a chronic disease) ways to reconcile work and family life.
9. In a business, allow a pregnant employee to absent herself from work for medical appointments related to her pregnancy.
10. In a business, authorize paid leave for religious purposes.
11. Eliminate Christian prayer at municipal council meetings.
12. Remove the crucifix from the wall of the Québec National Assembly.
13. Eliminate Christmas decorations in the workplace because they conflict with certain religious convictions.
14. Eliminate Christmas decorations in a public institution because they conflict with certain religious convictions.
15. Temporarily allow immigrant parents to communicate with school officials in a language other than French in the French-speaking sector or English in the English-speaking sector.
16. Allow Muslim students to wear headscarves in class.
17. Allow Sûrete du Québec police officers to wear turbans.
18. Allow Muslims to wear headscarves during sports tournaments, assuming that doing so creates neither an advantage or a disadvantage nor risk of injury.
19. Ensure that the cultural communities are more broadly represented in school textbooks.
20. Authorize in a university the establishment of a separate student association that assembles only the members of a given religious denomination.
21. Allow the kirpan to be worn in school wrapped up and attached under the clothing.
22. For religious reasons, schedule separate swimming lessons for girls and boys in the schools.

CONCLUSION

The Commission's mandate is very complex. The divisions between Quebecers concerning harmonization practices add to the difficulty. In our capacity as Co-Chairs, it is our duty to discern the nature and source of disagreements in order to contemplate avenues for reconciliation and proposals to be implemented.

This undertaking can only be carried out with the close participation of Quebecers, which is why the impending public consultations are so important. We strongly urge individuals and groups to make themselves heard.

Co-Chairs
Consultation Commission on
Accommodation Practices Related to Cultural Differences

Gérard Bouchard

Charles Taylor

APPENDICES

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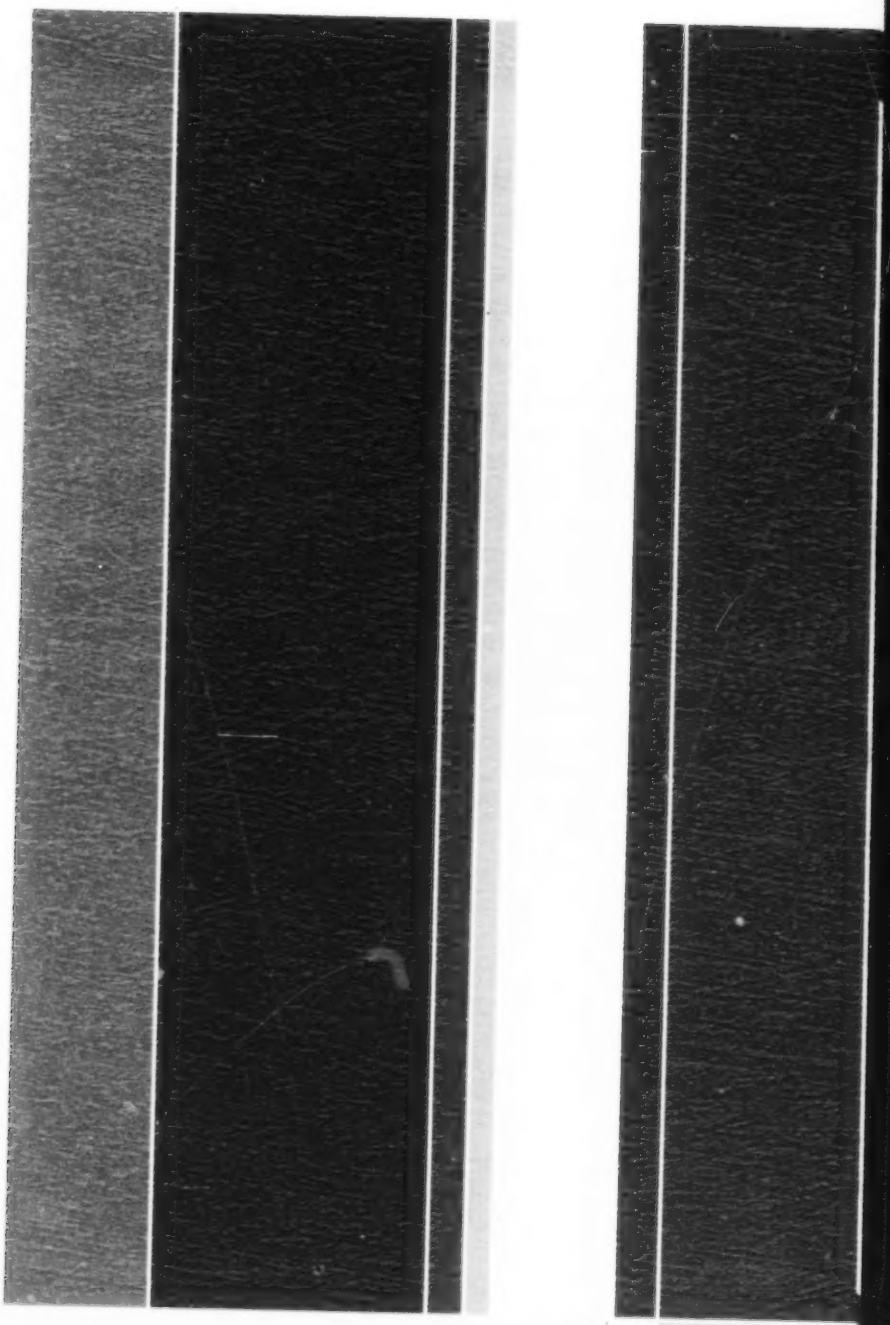

APPENDIX I

EXCERPT FROM QUÉBEC GOVERNMENT ORDER

IN COUNCIL 95-2007 CONCERNING the establishment of the Consultation Commission on Accommodation Practices Related to Cultural Differences

WHEREAS Québec society is attached to core values such as equality between women and men, the separation of church and State, the primacy of the French language, the protection of rights and freedoms, justice and the rule of law, the protection of minorities, and the rejection of discrimination and racism;

WHEREAS Québec society has chosen to be an open society;

WHEREAS accommodation practices related to cultural differences stem from choices made by society reflected, in particular, in the *Charter of Human Rights and Freedoms* (R.S.Q., c. C-12), the *Charter of the French language* (R.S.Q., c. C-11), government policy respecting equality between women and men, and regulations and programs concerning immigration and integration;

WHEREAS certain accommodation practices related to cultural differences might call into question the fair balance between the rights of the majority and the rights of minorities;

WHEREAS the government deems the integration and full participation by citizens in collective life to be a priority;

WHEREAS there is good reason to take stock of accommodation practices related to cultural differences and conduct a consultation among individuals and organizations wishing to express themselves in this respect;

IT IS HEREBY DECREED, on the recommendation of the Premier:

THAT a consultation commission on accommodation practices related to cultural differences be established;

THAT this commission be autonomous and independent;

THAT the commission be given the mandate to:

- accurately take stock of accommodation practices related to cultural differences and analyse the attendant issues bearing in mind, in particular, experience outside Québec;
- conduct an extensive consultation among individuals and organizations that wish to intervene in respect of the question of accommodation practices related to cultural differences;
- formulate recommendations to the government aimed at ensuring that accommodation practices related to cultural differences conform to Québec's values as a pluralistic, democratic, egalitarian society.

APPENDIX II

GLOSSARY

Alien resident
A person residing in a country who does not have citizenship, either because he has resided there for less than three years or because he has not requested it although he meets the residence requirement.

Allophone
In Québec, the term describes individuals whose heritage language is neither French nor English, although it does not apply to aboriginal peoples.

Assimilation
The process whereby an immigrant renounces his culture of origin to adopt that of the host society. Assimilation can be voluntary or forced.

Burka
A garment with veiled eyeholes that entirely covers the body and head.

Civic nation
A model of society in which collective life is based on rights by relegating to the background the dynamic of identity and everything pertaining to ethnicity (a feeling of belonging, collective memory, national myths, and so on).

Communitarianism
The encouragement by a society's political culture of the formation of ethnic communities that are fairly inward looking.

Concerted adjustment
Similar to reasonable accommodation except that the arrangement falls under the civic sphere and is usually granted by the manager of a public or private institution following amicable agreement or negotiation with users such as patients, students, customers or employees.

Differential treatment
The application for reasons of equality or fairness of a right in different ways to each member of society.

Erub or eruv
In the Jewish community, a real or symbolic alteration of a boundary, for example by means of a simple rope or wire, that delineates a zone in which certain activities normally prohibited by the religion may be carried out on Shabbat or certain religious holidays.

Ethnicity
Collective traits such as language, customs and religion associated with a community, which are transmitted from generation to generation while undergoing changes.

Ethnocultural
Defines any cultural reality stemming from ethnicity.*

Focus group
A discussion group led by one or two facilitators with a small group of individuals designed to ascertain the participants' perceptions, opinions and reasoning with respect to a given topic.

Foundational belief
A basic motivation or belief that encourages an individual to adhere to a particular value, moral standard or behavioural model.

Fundamentalism
Religious fundamentalism is an ideology or philosophy that gives the religion absolute precedence over any other norm. It is usually accompanied by a literal, monolithic interpretation of sacred texts.

Heterophobia
In the realm of relations between cultures in a given society, fear, malaise or aversion aroused by what is different.

Immigrant
An individual established in a national territory but born outside of it. Natives* are not immigrants. It is incorrect to refer to second- or third-generation immigrants.

Implicit norm
An informal rule that is not formulated explicitly but nonetheless applies.

Indirect discrimination
Injury to the rights of certain individuals stemming from the rigid application of a statute or a regulation. The notion appears to be falling into disfavour among Supreme Court of Canada justices but is still used by many jurists.

Integration
In a democracy, at the community or societal level* integration is the array of processes whereby a community organizes institutions, social relations and culture in a way that leads to the support of the greatest number of its members. From an individual standpoint, it is the array of choices by virtue of which a citizen participates fully if he so desires in the life of the host society, especially in the public sphere, and develops according to his traits and outlook.

Intercultural harmonization practices (measures)
In a very broad sense all forms of relaxation or arrangement aimed at settling difficulties and misunderstandings that arise through the encounter of different cultures. More specifically, these measures are adopted in favour of individuals or minority groups threatened with discrimination because of their culture (including their religion). Reasonable accommodation and concerted adjustments are two forms of intercultural harmonization.

Interculturalism
A policy or model that advocates harmonious relations between cultures based on intensive exchanges centred on an integration process that does not seek to eliminate differences.

Islam
The religious faith of Muslims, not to be confused with Islamism (see "Islamism").

Islamism
Currents, often radical or fundamentalist,* that combine the religious and the political.

Kirpan
The ceremonial dagger carried by orthodox Sikhs.

Liberal democracy
A democratic regime based on the recognition of individual rights and freedoms.

Liberalism
Principles or theories that guarantee individual freedoms in society.

Mixing of cultures
The melding of two or more cultures through intensive, prolonged contact.

Moral contract
A policy adopted in 1990 by the Québec government to implement an integration framework for immigrants. The document established, in a spirit of reciprocity, the commitments of the host society and newcomers.

Multiculturalism
In its most common sense, a system centred on respect for and the promotion of ethnic diversity in a society. The notion frequently arises that respect for ethnocultural diversity takes precedence over the imperatives of collective integration.

Multiethnicity
A political system or philosophy that fosters the establishment and consolidation of ethnic communities in a given territory, even at the expense of collective integration.

Native
A person who lives where he was born.

Niqab
A garment that covers at least the upper body, including the hair and face, except for the eyes.

Non-confessional education system
The abandonment of confessional schools in Catholic and Protestant school boards in Québec and the elimination of religious education in the schools.

Norm
A notion that is taken here to encompass legislation, regulations, contracts, administrative decisions, practice or use, and so on.

Obligation to accommodate
The duty, which, under law, makes it the responsibility of the managers of public and private institutions to avoid discrimination by adopting relaxation or harmonization measures in the administration of certain statutes or regulations.

Open secularism
A form of secularism aimed at banishing religion from State institutions while allowing certain religious expression, e.g. in schools and hospitals, among students or patients.

Pluralism
A system or philosophy, which, in the name of respect for diversity, acknowledges the existence of different political opinions, moral and religious beliefs, and cultural and social behaviour.

Pluridenominationality
The coexistence in a society of two or more religions.

Plurinational model
A system that advocates the coexistence within a State of more than one nation.

Racialized groups
Ethnic groups that are the victims of discrimination that is supposedly warranted by biological traits. Related notion: racial profiling.

Radical multiculturalism
A variant of multiculturalism that advocates the promotion of ethnic diversity accompanied by a minimal concern for collective integration. It is synonymous with segregation and ghettoization and is a form of multiethnicity (see **"Multiethnicity"**).

Radical secularism
A form of secularism aimed at banishing all religious expression from State institutions or in the public sphere overall and confining such expression to the private sphere.

Reasonable accommodation
An arrangement that falls under the legal sphere, more specifically case law, aimed at relaxing the application of a standard in favour of an individual threatened with discrimination because of personal traits protected by law.

Religion
(see **"Subjective conception of religion"**).

Representative or parliamentary democracy
A political regime under which the people are represented by individuals elected to exercise power.

Secularism
(translates the French *Laicité*. Of course, this is not an exact translation.)
The principle of separation between church and State.

Secularization
The act or process of eliminating any confessional spirit from State institutions.

Societal scale
Refers to the entire array of components or structures of a society, as opposed to microsocial or community scale.

State neutrality
Against a backdrop of pluridenominationality,* the political philosophy that prohibits the State from favouring one religion over another.

Subjective conception of religion or religious life
Arises when a court, in the examination of a request for accommodation for religious reasons such as a belief or ritual, relies on the complainant's conception of his religion instead of ascertaining the belief's or ritual's conformity with the official doctrine of the religion concerned.

Sukkah or succah
A temporary booth or shelter built for the duration of the nine-day Sukkoth festival to commemorate the 40 years that the Jewish people spent wandering in the desert.

Transcultural dynamic
A process of intense exchanges between cultures leading to the reciprocal integration of various elements.

Undue hardship
The burden stemming from a request for accommodation in terms of bureaucratic red tape, cost, injury to the rights of others, and so on. It is one of the key criteria used in the examination of a request for harmonization.

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